(G.C.P.)J 455 (5,00,000)-11.2001) Spl-H.C.,A.S.,C.D.,78e

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

Civil Application No.63 of 2006
and
Civil Application No.64 of 2006
in
LPA No.140 of 2005

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions and Registrar's order.	Court's or Judge's orders

None present for the applicants.

Shri P.N.Shastri for the respondent No.1.

CORAM: R.M.S.KHANDEPARKAR
&
SMT.R.S.DALVI, JJ

DATED: 21ST MARCH, 2006.

P.C.

1. None present for the applicants. The Civil Application No.63 of 2006 is an aplication for condonation of delay of 30 days in filing the Civil Application No.64 of 2006. Later application is for setting aside the order of dismissal dated 25th October, 2005 passed in the Letters Patent Appeal No.140 of 2005.

2. Letters Patent Appeal No.140 of 2005

was dismissed by the said order dated 25th October, 2005 on the ground that the order which was sought to be impugned could not be subjected to the Letters Patent Appeal. The application for setting aside the said order dated 25th October, 2005 is on the ground that the Letters Patent Appeal was dismissed for default. In fact, it was not so. The application for condonation of delay is on the ground that the clerk of the advocate failed to take note of the date of the hearing, and thereafter, he had proceeded to his native place for some time. Simultaneously, the advocate for the appellant was not present and was suffering from chronic asthama.

3. Apart from that, the grounds disclosed in the application do not reveal satisfactory explanation for condonation of delay in filing the Civil Application No.64 of 2006. The Civil Application No.64 of 2006 itself is not maintainable as the order dated 25th October, 2005 in LPA No.140 of 2005 was not passed on account of default in appearance but on account of non maintainability of the Letters Patent Appeal. Being so, there is absolutely no

case for setting aside the said order, nor there is any sufficient cause shown for condonation of delay. Both the applications therefore are dismissed.

(R.M.S.KHANDEPARKAR, J)

(SMT.R.S.DALVI, J)